

VETO MESSAGES
OF
GOVERNOR GARY E. JOHNSON

FORTY-FIFTH LEGISLATURE

SECOND SESSION AND
FIRST EXTRAORDINARY SESSION

2002

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FOREWORD

The Forty-fifth Legislature, Second Session, passed 128 bills that were sent to Governor Gary E. Johnson for his approval or disapproval. This total included 77 house bills and 51 senate bills. The governor signed 110 bills into law: 67 from the house and 43 from the senate. He vetoed 18 bills — 10 from the house and eight from the senate — and partially vetoed three.

During the First Extraordinary Session of the Forty-fifth Legislature, six bills were passed, including three from the house and three from the senate. The governor signed three bills into law: one from the house and two from the senate. He vetoed three bills — two from the house and one from the senate — and partially vetoed one. The governor's veto of Senate Bill 1, the General Appropriation Act of 2002, was overridden by the legislature.

The exact texts of the executive messages that accompanied the vetoed and partially vetoed bills are reproduced here.

**VETO MESSAGES OF HOUSE BILLS
FORTY-FIFTH LEGISLATURE
SECOND SESSION**

CS/H 2 GENERAL APPROPRIATION ACT OF 2002

February 7, 2002

HOUSE EXECUTIVE MESSAGE NO. 91

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 3, 4, 5 AND 6, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

It is with a good deal of frustration that I am vetoing this first general appropriations act of 2002.

This frustration stems from the lack of legislative reaction to my clearly expressed concerns. For the past four weeks, I have met with the legislative leadership and have clearly stated the reasonable parameters that would allow for the development of a budget that would adequately fund all of government. Those parameters are based on our current financial position, our future position set forth by the state's revenue estimators, our constant historical need for supplemental funding to fix prior year's underfunding, and my position that I would not spend non-recurring money on recurring expenses.

In other words, I have repeatedly asked for a flat budget, adequate reserves for our future, and responsible Medicaid spending. This budget fails on all three counts.

Medicaid growth is driving our budget. Cost containment measures must be implemented now and permanent reforms instituted next year. Knowing this, I provided the leadership with a specific recommendation to reduce the increase in Medicaid spending. Under my proposal New Mexico would still have a combined benefits and eligibility package that exceeds federal requirements placing it in the position of providing as generous a Medicaid program as our surrounding states. I am still hopeful a responsible Medicaid fix can be accomplished.

From a bottom line point of view, this proposed budget is clearly overspent. In fact, the budget provides for \$78 million in recurring expenditures above our current operating budget. This overspending is done with the knowledge that we only have \$8 million of new general fund revenue. Additionally, there are some critical agencies, such as the Taxation and Revenue Department, Department of Health, and the Department of Corrections that are under-funded.

Given the current trend in Medicaid growth of 10 percent and a modest projected growth in the rest of government of 3.5 percent, this proposed \$78 million increase in base spending will not be sustainable. Our citizens will be faced with future income tax increases and our operating reserves will continue to be tapped to pay annual operating deficits. Just this week, the voters in Bernalillo County clearly indicated that they will not approve an increase in local taxes, and I will not saddle them or the rest of New Mexico with a state budget that guarantees future tax increases.

Finally, the budget contemplates spending virtually all of the revenue received under tobacco settlements on recurring expenses and commits future tobacco revenues (an uncertain funding stream at best) to pay this increase in our spending base. This trend is not acceptable, and I cannot approve a budget that allows it.

The budget is vetoed for three simple but very compelling reasons:

- ! No realistic attempt has been made to control the growth of Medicaid spending;
- ! A total of \$78 million has been added to our recurring expenditure base in the face of only \$8 million in new revenue; and
- ! Approximately \$44 million of tobacco revenue has been earmarked to pay for recurring expenses leaving the tobacco permanent fund depleted.

This is more than a veto of next year's budget; it's also a veto to insure a balanced budget the year after next and the year after that. A government that usually budgets only for today must also show it can budget for tomorrow. The great uncertainties caused by recent events, volatile energy prices and a national recession demand caution, balance and foresight. New Mexico's future will be bright only if we look, plan and budget for it.

In sum, the proposed budget will assuredly produce the following results: first, an unsustainable growth in state government; second, an unavoidable tax hike; and third, a continuing erosion of our precious fiscal reserves.

Throughout the economic expansion of the 1990's the Legislature has consistently expanded Medicaid. Now, faced with an economic recession, we must reign in the growth of this valuable program. A government that adds must also demonstrate it can subtract.

New Mexicans expect their elected officials to both face the hard truths of difficult economic times and make tough responsible budgetary choices. This proposed budget I am vetoing does neither.

H 8 TOBACCO SETTLEMENT FUND DISTRIBUTION

February 8, 2002

HOUSE EXECUTIVE MESSAGE NO. 92

I have this day VETOED and am returning HOUSE BILL 8, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

The tobacco settlement permanent fund was established just three years ago in 1999 as a repository for the proceeds from the multi-year settlement agreement between the state and various cigarette companies. The enabling legislation clearly had two fundamental purposes: 1) to direct the revenue from the settlement proceeds to tobacco use cessation programs and health issues related to tobacco; and 2) to establish a fund which would continue to exist even after the settlement proceeds cease. As originally established, the proceeds from the tobacco settlement are divided into two parts - approximately half of the yearly proceeds are available for specific purposes and the other half are placed in the permanent fund to remain and earn interest.

This legislation amends the original act to allow for a complete raid on the tobacco permanent fund. However, the Legislature attempted to deplete the fund in House Bill 2, authorizing such a depletion even before this legislation reached my desk. It is hardly appropriate or fiscally responsible to approve legislation authorizing the depletion of a "permanent" fund, an action that would certainly lead to its ultimate demise.

H 14 SHARE WITH WILDLIFE PROGRAM

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 114

I have this day VETOED and am returning HOUSE BILL 14, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002. As I have expressed numerous times in the past, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters. The special plates that currently exist are more than ample to provide New Mexico's motorists a choice when registering their vehicles. The State of New Mexico should not be in the license plate business.

CS/H 28 INDIAN EDUCATION ACT

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 116

I have this day VETOED and am returning HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR HOUSE BILL 28, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill creates an Indian Education Division within the State Department of Education, and imposes a number of duties on this division related to Native American education. While I applaud efforts to address Native American educational needs in our state, I do not see how this bill furthers that cause - an Indian education division already exists in current law and is charged with many of the same duties this legislation would impose. If this current division is not doing its job, then we have yet another example of why I have pushed to make the Department of Education an executive cabinet agency so that the buck stops at the Governor's desk rather than a separately elected board.

H 44 INCREASE PER DIEM RATE

March 6, 2002

HOUSE EXECUTIVE MESSAGE NO. 122

I have this day VETOED and am returning HOUSE BILL 44, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill would increase *per diem* and mileage rates for government employees. Because New Mexico faces a substantial economic downturn and therefore needs to tighten the state's budget belt, I cannot sign any legislation resulting in substantial increases in government spending. House Bill 44 is such a bill; it stands as evidence of the Legislature's lack of resolve to responsibly deal with our fiscal problems rather than continue with business-as-usual politicking at the expense of our citizens.

H 54 INDIVIDUAL DEVELOPMENT ACCOUNT ACT

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 115

I have this day VETOED and am returning HOUSE BILL 54, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill expands and replaces the current Individual Development Account (IDA) program, which allows low-income families to establish state-administered and funded accounts for certain designated uses. This legislation would likely create an unfunded entitlement. In addition, it is my understanding that the Bush administration is exploring new, more effective ways to administer federally funded welfare programs, including IDAs, so substantive change to this program is premature.

H 153 REDISTRICTING OF SCHOOL DISTRICTS

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 112

I have this day VETOED and am returning HOUSE BILL 153, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill would require the State Board of Education to redistrict any district that has a student population in excess of 35,000. This deconsolidation mandate would effectively break up the Albuquerque public school district into three new districts. It is clear that the Albuquerque public school system must undergo a major reformation to meet the educational needs of all Albuquerque public school students. I have been encouraged to hear that the Albuquerque Public School system is entertaining the idea of working with private education providers on a pilot basis to see if they can produce results. In any case, this piece of legislation provides little if any hope for systemic solutions. This bill will create three new administrative entities with three new layers of bureaucracy, which for practical purposes translates into higher costs. The break up could potentially increase property tax mill levies and generate bonding capacity issues that may cripple capital funding well into the future. In short this bill creates a new administrative structure but does not address the glaring deficiencies that will remain despite this aggressive organizational change.

CS/H 164 LAW ENFORCEMENT SAFE PURSUIT ACT

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 117

I have this day VETOED and am returning HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 164, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill creates a procedure to monitor high speed pursuits engaged in by state law enforcement officers, provides for police training regarding such pursuits, and creates a new crime of "aggravated fleeing a law enforcement officer." While I am generally supportive of the "aggravated fleeing" portions of this bill, I believe the fiscal impact of the training and reporting requirements, and the fact that these mandates can be accomplished administratively, prevent me from signing this legislation.

H 311 DEVELOP CLASSIFIED STAFF TRAINING AND EXPERIENCE INDEX

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 118

I have this day VETOED and am returning HOUSE BILL 311, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill requires the State Board of Education to study and report back to the Legislative Finance committee and Legislative Education Study Committee, the feasibility of developing a training and experience ("T&E") index that includes classified staff, defined as personnel not assigned to an instructional program of a school district. The effect of this bill would be to study a way to pour money into school districts based upon the training and experience of non-teachers; in essence, it would throw dollars into a failed system without calling for any reform.

I would much prefer legislation that provides for system and school wide accountability, school choice, and merit-based pay structures. Although my comprehensive education package would have provided such change, it was flatly and almost immediately rejected by the Legislature. I hope that the next administration realizes that education is a top priority for New Mexicans, who I am sure tire at the Legislature's continued refusal to make our system of learning work for students and parents rather than teacher unions and bureaucrats.

CS/H 487 INDIAN AFFAIRS CASH BALANCES

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 113

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 487, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill appropriates a total of \$250,000 from Office of Indian Affairs' cash balances relating to various Native American and senior citizen issues. Analysis of the Office's balance sheet shows that it does not currently have sufficient cash balances to cover this appropriation. Once again, I cannot sign legislation that spends money the state does not have.

**VETO MESSAGES OF SENATE BILLS
FORTY-FIFTH LEGISLATURE
SECOND SESSION**

CS/S 1 GENERAL APPROPRIATION ACT OF 2002

March 6, 2002

SENATE EXECUTIVE MESSAGE NO. 94

I have this day VETOED and am returning SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 1, enacted by the Forty-Fifth Legislature, Second Session, 2002.

Any General Appropriations Act passed by the Legislature must be fiscally sound and balanced.

As I have previously stated, I will not leave the state in a financial position that will ensure future tax increases. This budget I am vetoing does just that. I made a promise to the citizens of New Mexico to take a stand against fiscal irresponsibility. Citizens may or may not remember this promise -- but I do.

The proposed budget is fiscally irresponsible. It, together with other legislation I have already acted upon, would overspend by nearly \$80 million. Specifically, the budget contains the following fundamental flaws:

1. It proposes recurring spending of \$54 million in excess of available recurring revenues;
2. It underfunds necessary and critical state agencies such as the Department of Public Safety, the Department of Health and the Department of Corrections by nearly \$26 million;
3. It offers no solutions to our current Medicaid crisis, a crisis which if not managed quickly and appropriately will continue to monopolize our state budget; and
4. It jeopardizes our state's reserves in the future. As stated by the Albuquerque Chamber of Commerce Board, spending the state's "reserve funds on recurring expenses is no different than a family faced with a budget shortfall that continues to spend at previous levels while using its IRA to pay fixed budget costs such as the mortgage or car payment."

In recent days when this second veto appeared imminent, I have been asked, "Will you call the legislature into a special session?" My response has been and continues to be "no." The frustration with which I vetoed the first budget is compounded with the veto of this second

General Appropriations Act of 2002.

My frustration stems from the lack of legislative reaction to my clearly expressed concerns as articulated throughout the session and most importantly in my veto message for the first General Appropriations Act of 2002. I have set forth reasonable parameters allowing for the development of a budget that would adequately fund all of government. Those parameters are based on our current financial position, our future position set forth by the state's revenue estimators, our consistent historical need for supplemental funding to fix prior year's underfunding, and my position that I would not spend non-recurring money on recurring expenses.

I have repeatedly asked that one simple condition be met: a flat budget that allows for adequate reserves for our future. Republicans heard my request and offered a budget during the session that fully funded Medicaid growth and cut the rest of government to do so. However, this proposal was summarily killed on the floor of the House of Representatives in less than two hours.

In light of this legislative reaction (or lack of reaction) to my clearly articulated concerns, my question remains: Why bring back a legislature that wants to burden our citizens with a tax increase? Rest assured, government will continue. I will not be held hostage for a tax increase with threats of a government shutdown. We will keep the doors open and insure that the laws on the books are carried out.

In closing, I will reiterate what I have already stated in my prior veto message of the first General Appropriations Act: this is more than a veto of next year's budget; it's also a veto to insure a balanced budget the year after next and the year after that. A government that usually budgets only for today must also show it can budget for tomorrow. The great uncertainties caused by recent events, volatile energy prices and a national recession demand caution, balance and foresight. New Mexico's future will be bright only if we look, plan and budget for it.

New Mexicans expect their elected officials to both face the hard truths of difficult economic times and make tough responsible budgetary choices. This proposed budget I am vetoing once again does neither.

S 92 ENROLLMENT GROWTH PROGRAM UNITS CALCULATION

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 90

I have this day VETOED and am returning SENATE BILL 92, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill changes the enrollment formulas for school districts with an increase in enrollment from the prior year. I vetoed this legislation out of concern for its large fiscal impact in future budget years - after all, an earlier version of the bill contained a \$9.5 million appropriation from the state's general fund. These lean economic times require me to make the cost of legislation a primary concern.

S 114 CONVENTION CENTER FINANCING ACT

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 83

I have this day VETOED and am returning SENATE BILL 114, enacted by the Forty-Fifth Legislature, Second Session, 2002. This bill would authorize the City of Las Cruces to assess a \$2.50 per day fee (i.e., tax) on lodging for the purpose of constructing a convention center. This is a repeat of the bill I vetoed last year, and do so again for the same reason: I have always opposed increases in taxes. It remains a mystery to me why the Legislature would waste valuable session time sending me an almost exact copy of a bill vetoed last year, yet claim that major policy overhauls such as my comprehensive education reform package are not proper in a "short" session.

S 172 MARRIAGE LICENSE FEES

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 84

I have this day VETOED and am returning SENATE BILL 172, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill raises the marriage fee from \$25 to \$40 and eliminates the requisite blood test. I believe this bill flies in the face of welfare reform as an increase in the costs of marriage has its greatest impact on New Mexico's poor. I would much prefer tax credits that encourage marriage rather than laws that discourage it.

S 198 INDIAN EDUCATION ACT

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 85

I have this day VETOED and am returning SENATE BILL 198, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill creates an Indian Education Division within the State Department of Education, and imposes a number of duties on this division related to Native American education. While I applaud efforts to address Native American educational needs in our state, I do not see how this bill furthers that cause - an Indian education division already exists in current law, and is charged with many of the same duties this legislation would impose. If this current division is not doing its job, then we have yet another example of why I have pushed to make the Department of Education an executive cabinet agency so that the buck stops at the Governor's desk rather than a separately elected board.

S 235 INSURANCE LICENSE FEES

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 86

I have this day VETOED and am returning SENATE BILL 235, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002.

This bill increases fees charged by the New Mexico Superintendent of Insurance to insurance license applicants, strikes the current law requiring a refund of appointment fees if an insurance license application is rejected, and imposes a penalty on licensees who fail to notify the Superintendent of a change of address within 20 days. I have always disfavored laws that appear to do little more than attempt to discourage entrepreneurial newcomers from entering a particular field and shield those already in the business from such competition. I believe this legislation could create such an anti-competitive environment in the insurance industry.

S 272 REPEAL DELAYED REPEAL OF CHILD HEALTH ACT

March 6, 2002

SENATE EXECUTIVE MESSAGE NO. 92

I have this day VETOED and am returning SENATE BILL 272, enacted by the Forty-Fifth Legislature, Second Session, 2002.

Senate Bill 272 would remove the sunset provision of the Child Health Act which is the statutory basis for setting up the State Children's Insurance Program (SCHIP). This would effectively require the indefinite continuation of this program and prohibit any administrative changes. Currently, the Child Health Act mandates coverage of children at 235% of the federal poverty level. Allowing the Act to continue in its present form would not permit the Human Services Department any measure of flexibility regardless of current or future budgetary constraints. The Public Assistance Act gives authority to the Medical Assistance Division to provide medical assistance to persons eligible for public assistance. This language would seem to include a program such as SCHIP and the individuals it serves. As the Public Assistance Act gives authority to the Medical Assistance Division to provide medical assistance through a program such as SCHIP, the Child Health Act is unnecessary. While continuation of the program in its present form may prove possible, it would be fiscally irresponsible to statutorily mandate funding forever at this level.

S 335 WEST POINT GRADUATES' LICENSE PLATES

March 5, 2002

SENATE EXECUTIVE MESSAGE NO. 88

I have this day VETOED and am returning SENATE BILL 335, enacted by the Forty-Fifth Legislature, Second Session, 2002.

As I have expressed numerous times in the past, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters. The special plates that currently exist are more than ample to provide New Mexico's motorists a choice when registering their vehicles. The State of New Mexico should not be in the license plate business.

**PARTIAL VETOES
FORTY-FIFTH LEGISLATURE
SECOND SESSION**

H 1 (Chapter 1) FEED BILL

January 21, 2001

HOUSE EXECUTIVE MESSAGE NO. 38

I have this day SIGNED HOUSE BILL 1, with emergency clause, enacted by the Forty-Fifth Legislature, Second Session, 2002, but pursuant to Article IV, Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On Page 8, Line 13 through Line 17, all of Section 10 in its entirety. This provision of House Bill 1 appropriates \$750,000 from legislative cash balances to pay for expenses relating to litigation over the redistricting of New Mexico's Congressional, state House of Representatives, and state Senate districts. Prior to this appropriation of \$750,000, the Legislature had already appropriated nearly \$1.2 million for legal expenses associated with redistricting. These appropriations are in addition to the \$690,000 appropriated for the operating expenses of the redistricting special session this past September.

I have said repeatedly that redistricting should have been resolved by the Legislature, not the courts, and therefore I am generally opposed to using taxpayer dollars, especially in this lean budget year, to pay for the redistricting court battles. Prior to this appropriation, I did not intend to seek money for the outside attorney who assisted my general counsel in defending me in the redistricting litigation. However, it is my position that if the Legislature receives additional money on top of the \$1.2 million already appropriated for their attorneys, fairness dictates that some of that money should be applied to the attorney who assisted my office. Thus, I was willing to consider signing this additional appropriation to pay for the Legislature's attorneys and expert witnesses if the Legislature was willing to provide my outside counsel with at least some of this appropriation.

In this discussion it is also important to note the roles of the attorneys in this litigation. The Legislature's lawyers and paid expert witnesses spent more resources defending the actions of the Legislature than my office spent defending my position vetoing the Legislature's redistricting plans they knew I could not accept. Let's compare: the Legislature employed four full-time attorneys in the case. I used two, one being my in-house general counsel. The Legislature hired three high-priced expert witnesses. I used one. Most importantly, my desire not to split Albuquerque and to maintain competitive Congressional districts was validated by the court; the

Legislature's Congressional plan was rejected. It is only fair that my attorney, who has thus far received not one dime of public money, be compensated with at least some portion of the almost \$2 million that the Legislature wants to shell out to their lawyers.

While I have said a lot about the appropriation for lawyers, it is not the only part of House Bill 1 that deserves comment. First, the appropriation for operational session expenses is flat compared to the same appropriation for the 2000 regular thirty-day legislative session. In fact, it is my understanding that the Senate has actually reduced the number of staff they are using for the operation of the session. In this area, the Legislature should be commended for applying the same principles to themselves that we all must follow in these lean budget times.

Finally, the Legislature has once again given itself complete budget adjustment authority; in other words, the ability to freely transfer money between accounts within agencies. The Legislature has always given itself the ability to freely move money between agency accounts unlike any other state agency or branch of government. I have in the past expressed concerns with respect to this issue. In fact, I have vetoed this language before. I still believe that legislative, executive and judicial agencies should be on equal footing especially in the area of transferring money between agency accounts for operational purposes. However, I trust that the cooperation shown by the Legislature to this point will continue and all agencies in government will be provided this same budget transfer authority in the General Appropriations Act.

H 88 (Chapter 110) CAPITAL OUTLAY PROJECTS

March 6, 2002

HOUSE EXECUTIVE MESSAGE NO. 123

I have this day SIGNED HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE BILL 88, as amended with emergency clause and Certificate of Correction, enacted by the Forty-Fifth Legislature, Second Session, 2002, but pursuant to Article IV, Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On page 206, line 8, after the word "projects" I have vetoed the remainder of the line and all of lines 9 and 10.

I have vetoed this language making the \$15 million appropriation to the water and wastewater project grant fund contingent upon passage of Senate Bill 50 because the contingency would have eliminated any funding for this crucial grant fund, thereby eliminating the possibility of making emergency grants to communities in need.

Section 6-21-6.3, subsection E allows the New Mexico Finance Authority to make grants from

this fund to qualified entities for emergency public projects without specific authorization by law. Under this statute, the aggregate amount of grants for emergency public projects in any one fiscal year cannot exceed \$3 million. The effect of this veto is to ensure that \$15 million is appropriated to the water and wastewater project grant fund and that only \$3 million is available for emergency purposes. The remaining \$12 million will still be subject to legislative authorization and appropriation.

With this partial veto stated, my approval of this massive capital outlay package will provide for the repair, remodel, upgrade and construction of over 1,000 public works projects all across New Mexico, including over 400 school related projects, more than 50 higher education projects, and over 200 vital public health and safety projects. These projects will noticeably improve the quality of life of almost every community.

This capital outlay bill, valued at over \$173 million dollars, combined with the general obligation bond act already signed and valued at \$140 million, means that over \$310 million of public works projects are in the pipeline. Viewed from any policy perspective -- economic stimulus, public health and safety or quality of life -- this capital package is important and I will not impede its progress.

While this capital outlay bill impacts our quality of life positively, it must be noted that the same bill negatively impacts the state's overall budget situation. The use of over \$72 million of general fund monies, albeit on non-recurring projects, does negatively impact our general fund reserves. The architects of the "pork bill" further compounded the situation by preventing line-item vetoes; it was either two thumbs up or two thumbs down.

I have chosen "two thumbs up." But all fiscal choices have fiscal consequences. General fund money spent in the capital outlay bill will have substantial impacts on general fund monies spent in the general appropriations act. The Democrats have made their choice on capital outlay; now they will have to accept the budgetary consequences.

Now, any resolution to today's budget impasse would require the Legislature to adopt a flat budget. Medicaid fixes must be adopted. And no further erosion of reserves will be tolerated.

Choices have been made. Laws have been signed or vetoed. The 45th Legislature is officially over pursuant to the Constitution. I will now take all necessary and appropriate executive action to manage the government over the remainder of my term in office.

**H 239 (Chapter 92) DISTRIBUTION TO TRIBAL POLICE
DEPARTMENTS**

March 5, 2002

HOUSE EXECUTIVE MESSAGE NO. 109

I have this day SIGNED HOUSE BILL 239, as amended, enacted by the Forty-Fifth Legislature, Second Session, 2002, but pursuant to Article IV, Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On Page 9, Line 19 through 21, beginning with "and" and ending with ";" I have vetoed all of these lines.

This section of the bill allows New Mexico tribal departments to receive \$20,000 from the state's Law Enforcement Protection Fund similar to what county and local departments receive under current law. This provision would likely result in a significant fiscal hit to the fund. Because I have signed Senate Bill 39 (providing for parents of slain police officers to receive survivor's benefits), I want to ensure that enough money exists in this fund to provide for the families of New Mexico's fallen law enforcement officers.

**VETO MESSAGES OF HOUSE BILLS
FORTY-FIFTH LEGISLATURE
FIRST EXTRAORDINARY SESSION**

H 2 WATER CONSERVATION PROJECTS

May 24, 2002

HOUSE EXECUTIVE MESSAGE NO. 2

I have this day VETOED and am returning HOUSE BILL 2, with emergency clause, enacted by the Forty-Fifth Legislature, First Extraordinary Session, 2002.

In the previous legislative session this legislature appropriated \$30 million to deal with water issues in our great state over the next two years. Instead of allowing the appropriate entities the ability to take care of water issues as necessary, this bill would restrict expenditures to \$15 million per year. Because this money is necessary, in light of water resource management issues facing New Mexico today, I cannot sign this legislation.

The proper place to address appropriate operating reserve levels is in a General Appropriation Act, which provides for a fiscally responsible budget rather than the cobbled-together smoke and mirrors approach we see in this and other similar bills.

H 3 TRANSFER PROCEEDS FROM REAL PROPERTY SALES

May 24, 2002

HOUSE EXECUTIVE MESSAGE NO. 3

I have this day VETOED and am returning HOUSE BILL 3, with emergency clause, enacted by the Forty-Fifth Legislature, First Extraordinary Session, 2002.

This bill appears to be another move to artificially inflate the state's General Fund operating reserve. The Legislature passed and I signed into law legislation creating this fund in 1998, only four years ago. I do not believe it prudent to alter the purpose of such a young fund and in turn raid it to artificially inflate the state's reserves.

The proper place to address appropriate operating reserve levels is in a General Appropriation

Act which provides for a fiscally responsible budget rather than the cobbled-together, smoke and mirrors approach we see in this and other similar bills.

**VETO MESSAGE OF SENATE BILL
FORTY-FIFTH LEGISLATURE
FIRST EXTRAORDINARY SESSION**

S 1 (Chapter 4) GENERAL APPROPRIATION ACT OF 2002 (veto overridden)

May 28, 2002

SENATE EXECUTIVE MESSAGE NO. 2

I have this day VETOED and am returning SENATE BILL 1, enacted by the Forty-Fifth Legislature, First Extraordinary Session, 2002.

For the third time this year, I am refusing to sign into law a budget that would leave New Mexico government in a state of financial disarray. As I have repeatedly and publicly stated this week, I made a promise to New Mexicans when I was first elected to this office seven and a half years ago that I would never leave the state in worse fiscal shape than when I took office. I have not and I will not break that promise. And I have not and will not sign a budget that constitutes a step toward a future tax increase.

While a myriad of problems exist with this budget, there are three provisions of the bill I cannot and will not accept:

- ! According to the most current Medicaid consensus group estimates, Medicaid is underfunded by \$6 million in state funds for the current fiscal year, and an additional \$10 million in state funds for fiscal year 2003. Once again, the budget employs tobacco settlement revenue and operating reserves to fund this recurring, expensive entitlement program instead of finding ways to curb Medicaid growth.
- ! Some of the largest, entitlement-driven agencies in state government, including the Department of Health, the Department of Children, Youth, and Families, and the Department of Corrections, are underfunded by a collective \$16 million.
- ! Despite my numerous requests, this budget fails to provide agencies with a critical tool to deal with the above-mentioned funding shortfalls -- sufficient budget adjustment, or "BAR" authority, providing the executive with flexibility to move money between agencies where bills need to be paid.

In the 15 years prior to my administration, this state was subjected to 39 significant tax increases.

During the almost eight years of my term as governor, we have instead seen a decrease in taxes, and my vetoes have prevented nearly \$830 million in attempted overspending by the Legislature. Moreover, my administration has kept state employee growth virtually static since 1995, a testament to the men and women in public service who have done the same job with less staff for almost a decade. Let me be clear: I steadfastly hold to the belief that government should shrink, not grow. But I cannot sign a budget that does not provide the executive with the ability to faithfully and fully execute the laws of this state.

Although a half a year remains before the end of my administration, I have deep concern for the financial future of our state. I am concerned that this budget heralds a return to business-as-usual politics. I fear that all of the progress we have made toward fiscal responsibility and government accountability will be washed away in a tidal wave of higher taxes and uncontrolled spending, and this budget is an ominous sign of things to come. I have done my best to shield New Mexico from fiscal irresponsibility these past seven and a half years. And so long as I remain in office, I will not let up the fight. What some call gridlock and intransigence, I call championing the will of working families to keep money in their pockets rather than see hard-earned dollars thrown away by politicians.

New Mexico is at a crossroads. While our state increasingly becomes a great place to do business, we still maintain the same regressive tax structure and the same attitude that government is the answer to all our problems. I pass along this advice to the next administration: the supreme executive authority in this state exists to serve the 1.8 million souls that proudly call themselves New Mexicans. In my opinion, government fiscal responsibility is the beginning and the end of keeping the people's best interests in mind.

And to the Legislature, especially those who would vote to override this veto, I ask that they keep in mind that we were elected to make tough choices and answer the difficult questions that face this state, and I fear this budget, like the other budgets that have reached my desk this year, does neither. I also would thank those Legislators who, despite intense pressure to the contrary, have held the line and stood behind me so that only one of my 751 vetoes has fallen to an override vote. Your courage and willpower has allowed me to keep the promises I have made to curb government growth, reign in government spending, and fight for real, commonsense change in the way government affects our lives.

As for the present, my remaining hope is that instead of attempting to override my veto, level heads in the Legislature realize the problems with this budget and send to me instead one which adequately funds legislative mandates or at the very least provide appropriate flexibility to manage the underfunding created by this budget. With such a budget, New Mexico would continue to maintain a balanced checkbook that provides for the economic ups and downs that will face us in the future.

**PARTIAL VETO MESSAGE
FORTY-FIFTH LEGISLATURE
FIRST EXTRAORDINARY SESSION**

S 3 (Chapter 1) TRANSFER WATER AND WASTEWATER PROJECT FUNDS

May 24, 2002

SENATE EXECUTIVE MESSAGE NO. 3

I have this day SIGNED SENATE BILL 3 with emergency clause enacted by the Forty-Fifth Legislature, First Extraordinary Session, 2002 but pursuant to Article IV, Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts: on Page 1, Line 7 through Line 25, on Page 2, line 1 -- all of Sections 1 and 2 in their entirety.

With the state's Water Trust Board having identified significant long-term water needs in New Mexico, and the Drought Task Force and the state's Department of Environment having identified numerous short-term water needs, now is not the time to pull back our state's commitment to providing citizens with an appropriate water supply. This language would not only serve to delay funding for Water Trust Board but also reduce by \$3 million the money available for water projects in an effort to artificially inflate operating reserve levels.

This bill appears to be another move to artificially inflate the state's General Fund operating reserve. The Legislature passed and I signed into law legislation creating this fund in 1998, only four years ago. I do not believe it prudent to alter the purpose of such a young fund and in turn raid it to artificially inflate the state's reserves.